Re 10/759,371

Response to Arguments

Applicant's arguments, see Preliminary Amendment, filed May 01, 2007, with respect to the rejection(s) of claim(s) 1-2, 4-9 and 12 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Banker et al, US 5,579,057 and Hamilton et al, US 5,579,055.

The indicated allowability of claims 3 and 11 are withdrawn in view of the cited reference to Banker et al, US 5,579,057. Rejection of claims 3 and 11 based on said reference is stated below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, *except* that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

Claims 1-2, 4 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Banker et al, US 5,579,057 (hereinafter "Banker").

Claim 1, Banker discloses:

A control processor (fig. 2b [128]) operating a control program (col. 8, lines 38-47) for commanding an on screen display processor (fig. 11 [127], col. 2, lines 3-11) which executes program codes (col. 14, lines 49-53) to overlay an interactive program guide with a perceived partial transparency over a television program (col. 4, lines 25-28, col. 12, lines 3-11, disclose on screen display(s) "overlayed" on active video) can be at least partially perceived by a television viewer through the interactive program guide (col. 4, lines 1-21 disclose assigning group of colors to a pixel to be a transparent color. It should be noted that active video being overlayed by transparent pixels of on screen display content would inherently be perceptible to a viewer. It should also be noted that interactivity of the on screen display is inherently implied in Banker through col. 2, lines 23-29. It should also be noted that the electronic program guide is presented as the on screen display in Banker).

Claim 2:

The computer readable storage media of claim 1, wherein the instructions allow variability of a weight of the transparency relative to a display image. (Col. 4, lines 16-28 disclose a range of colors can be selected to be a transparent pixel. One technique

is by assigning a value of zero to the luminance component for nonzero chrominance components).

Claim 4:

The computer readable storage media of claim 2, wherein the instructions allow a user to vary the weight of the transparency. (Rejected as applied to claim 2 above).

Claim 12 is rejected as applied to claims 1-2 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: ***(See MPEP Ch. 2141)***

a. Determining the scope and contents of the prior art;
b. Ascertaining the differences between the prior art and the claims in issue;
c. Resolving the level of ordinary skill in the pertinent art; and
d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

Claims 3, 5-6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al.

Claim 3:

Banker discloses the claimed invention as applied to claim 2 above, but not wherein the instructions allow a display of the percentage of the weight of the transparency as claimed.

However, providing a percentage as the weight of transparency as opposed to a specific color value disclosed in Banker is an arbitrary design preference and thus, would have been obvious to one skilled in the art.

Claim 5:

Banker discloses the claimed invention as applied to claim 2 above, but not wherein the instructions allow automatic setting of the weight of the transparency upon program guide activation to the weight set at the time of most recent program guide deactivation as claimed.

However, it would have been obvious and logical to expect the invention of Banker to maintain previous setting(s) for color transparency of pixels upon re-activation of the on screen display to maintain the viewer's preferred settings.

Claim 6:

Banker discloses the claimed invention as applied to claim 2 above, but not wherein the instructions present the program guide so that portions of the program guide are opaque relative to the display image.

However, since Banker discloses the ability to set a transparent color value to a pixel (see discussion in claim 1), the converse would have been obvious and reasonably expected. That is, setting a color value to make the pixel opaque.

Claim 11 is rejected as applied to claims 1-3 above.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al as applied to claim 1 above and further in view of Young et al, US 5,479,268.

Claim 7:

Banker discloses the invention as applied to claim 1 above, but not wherein the instructions present the program guide in a grid.

However, presenting program guide data in a grid is well known and used as evidenced by Young (figs. 1-7,19, col. 6, lines 55-56). Thus, the combination of Banker and Young as a whole would have rendered obvious presenting program guide data in a grid as claimed.

Claim 8:

The combination of Banker and Young further teaches wherein the instructions present one dimension of the grid corresponding to television channels. (Young figs. 1-7).

Claim 9:

The combination of Banker and Young further teaches wherein the instructions present one dimension of the grid corresponding to broadcast times. (Young figs. 1-7).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al as applied to claim 1 above and further in view of Hamilton et al, US 5,579,055.

Claim 10:

Banker discloses the invention of claim 1, but not scrolling the program guide as claimed. However, such feature is well known and used as evidenced by Hamilton (Abstract, col. 2, line 16). Thus, the combined teachings of Banker and Hamilton as a whole would have rendered obvious the capability of scrolling EPG data for added flexibility in channel surfing.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Chin whose telephone number is 571-270-3753. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on 571-272-7332. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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